

Appl. No. : 09/830,855  
Filed : April 27, 2001

### REMARKS

The Specification and claims have been amended to more clearly recite the claimed invention. The Specification has been amended to add the abstract on a separate page. Support for the abstract can be found in the abstract of PCT/IB99/01747. Claims 1-15, 23, and 26-37 have been canceled. Claim 16 has been amended to be an independent claim. Claims 24 and 25 have been amended to recite "turning". Support for this amendment can be found in the Specification in Figure 7 in which the receptacle is shown being turned and in the description of the process on pages 18 and 19 (see page 18, third complete paragraph through page 19 second complete paragraph). Support for the language "set into the side wall" can be found in the figures 6 and 7 and the description of the figures on pages 17 and 18. No new matter has been added herewith. The changes made to the Specification and Claims by the current amendment, including deletions and additions, are shown herein with deletions designated with a ~~strikethrough~~ and additions underlined. As a result of the amendment, Claims 16-22, 24 and 25 are presented for further examination.

#### **Rejection under 35 U.S.C. §112, second paragraph**

Claims 1-15 have been rejected as being indefinite. However, Claims 1-15 have been canceled. Therefore, the rejection under 35 U.S.C. §112 is moot.

#### **Rejections under 35 U.S.C. §102(b)**

Claims 1-4, 9-12, and 26 are rejected under 35 U.S.C. §102(b) as being anticipated by Shubert et al (US Patent No. 5,238,485). More specifically, the Examiner believes that Shubert teaches a method for the assay and recovery of precious metals.

Claims 1-4, 9-12, and 26 have been canceled. Thus, this rejection under 35 U.S.C. §102(b) is moot.

Claims 16-23 are rejected under 35 U.S.C. §102(b) as being anticipated by Hiraoka et al (GB 2,289,758). More specifically, the Examiner believes that Hiraoka teaches a sampling vessel for thermal analysis.

The presently claimed sampling vessel has a collecting cavity within the side wall which allows for separating the molten lead from the slag using gravity. This process is described in Figures 6 and 7 and the accompanying description on pages 18 and 19. The sampling vessel of Hiraoka et al. does not contain a collecting cavity within the side wall. It merely addresses the problem of spillage by providing three separate cavities within the receptacle each having a

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groove to prevent spillage during the process of pouring the molten slag and lead from one into the other. Because each of the cavities are completely separate from each other, none is "within the side wall of the receptacle".

To be anticipatory under 35 U.S.C. § 102, a reference must teach each and every element of the claimed invention. See *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379 (Fed. Cir. 1986). "Invalidity for anticipation requires that all of the elements and limitations of the claim are found within a single prior art reference. ...There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention." See *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565 (Fed. Cir. 1991).

Thus, Hiraoka *et al.* does not teach a collecting cavity "within the side wall of the receptacle" and Hiraoka does not anticipate the claimed invention.

Claims 24 and 25 are rejected under 35 U.S.C. § 102(b) as being anticipated by Winterhager et al (US Patent No. 4,029,302). More specifically, the Examiner believes that Winterhager teaches a device and method for separating mixtures of molten metals.

However Winterhager *et al.* discloses a centrifugal drum which uses centrifugal forces to separate the metal from the slag. The word "rotating" is used in Winterhager *et al.* to describe a centrifugal movement. This is totally different from what is claimed in Claim 24, namely turning the receptacle in a first direction without a centrifugal-type rotation. The method of Claim 24 relies on the difference in density of the slag and lead to separate them into the collecting cavity under the force of gravity, without the additional force of centrifugation, by tipping or turning the receptacle so that the denser lead falls into the collecting cavity and the slag can then be poured out. Thus, Winterhager *et al.* is not anticipatory because it only teaches centrifugally rotating the receptacle. Accordingly, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 102(b).

Claims 26-30 are rejected under 35 U.S.C. § 102(b) as being anticipated by the abstract of KR 9105056 to Bang. More specifically, the Examiner believes that Bang teaches a flux composition comprising sodium hydroxide.

However, Claims 26-30 have been canceled rendering this rejection moot.

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Claims 31-37 are rejected under 35 U.S.C. §102(b) as being anticipated by Rausing et al (US Patent No. 3,633,780). More specifically, the Examiner believes that Rausing teaches an enclosed container as claimed.

However, Claims 31-37 have been canceled rendering this rejection moot.

Claims 1, 2, 5-7, and 12 are rejected under 35 U.S.C. §102(b) as being anticipated by Australian Laboratory Services (ALS) - Minerals Division newsletter article entitled "Coarse Gold Problems (hereinafter ALS). More specifically, the Examiner believes that ALS teaches a fire assay method for determining the concentration of fine metals in an ore sample.

However, Claims 1, 2, 5-7, and 12 have been canceled rendering this rejection moot.

### Conclusion

The Applicant has endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, arguments in support of the patentability of the pending claims set are presented above. In light of these remarks, reconsideration and withdrawal of the outstanding rejections is respectfully requested. If the Examiner has any further questions, please contact the undersigned at the telephone number appearing below.

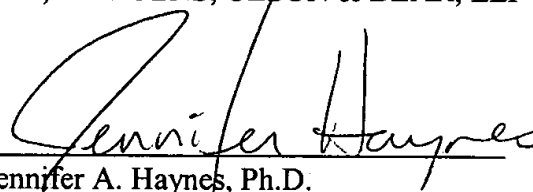
Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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